

CHILD LABOR LAW ►

Neb. Rev. Stat. §§48-301 to 48-313

[Current Through 2014 Regular Session]

STATE OF NEBRASKA

DAVE HEINEMAN, Governor

DEPARTMENT OF LABOR

JOHN H. ALBIN, Acting Commissioner

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TEXT OF THE LAW

48-301. Terms, defined. For purposes of sections 48-302 to 48-313:

(1) Employment means

(a) service for wages or

(b) being under a contract of hire, written or oral, express or implied.

Employment, other than detasseling, does not include any employment for which the employer is not liable for payment of the combined tax or payment in lieu of contributions under section 48-648, 48-649, or 48-660.01; and

(2) Detasseling means the removal of weeds, off-type and rogue plants, and corn tassels in hand pollinating and in any other engagement in hand labor in the production of seed.

Source: Laws 1995, LB 330, § 1; Laws 2001, LB 180, § 3.

48-302. Children under sixteen; employment certificate required; enforcement of section. No child under sixteen years of age shall be employed or permitted or suffered to work in any employment as defined in section 48-301 within this state unless the person or corporation employing the child procures and keeps on file, accessible to the attendance officers and to the Department of Labor and its assistants and employees, an employment certificate as prescribed in section 48-304 and keeps two complete lists of all such children employed in the building, one on file and one conspicuously posted near the principal entrance of the building in which such children are employed. Upon the termination of the employment of a child so registered whose certificate is so filed, such certificate shall be transmitted by the employer to the person authorizing the certificate pursuant to section 48-303 and shall be turned over to the child named upon demand. Any attendance officer or the Department of Labor or its assistants and employees may demand that any employer in whose place of business a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this section, either furnish within ten days satisfactory evidence that such child is in fact over sixteen years of age or cease to employ or permit or suffer such child to work in such place of business. The same evidence of the age of such child may be required from such employer as is required on the issuance of an employment certificate as provided in section 48-304, and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. In case such employer fails to produce and deliver to the attendance officer or the Commissioner of Labor within ten days after demand such evidence of the age of any child as may be required under the provisions of section 48-304 and continues to employ such child or permit or suffer such child to work in such place of business, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this section that such child is under sixteen years of age and is unlawfully employed.

Source: Laws 1907, c. 66, § 2, p. 259; R.S.1913, § 3576; Laws 1919, c. 190, tit. IV, art. III, § 2, p. 550; C.S.1922, § 7670; C.S.1929, § 48-302; R.S.1943, § 48-302; Laws 1963, c. 290, § 2, p. 868; Laws 1967, c. 296, § 1, p. 804; Laws 1995, LB 330, § 2; Laws 1999, LB 272, § 18.

Annotations:

Employer's failure to procure certificate is not proximate cause of injury; and is material only to sustain minor's right of action. *Benner v. Evans Laundry Co.*, 117 Neb. 701, 222 N.W. 630 (1929).

Main purpose of requiring certificate is educational. *Benner v. Evans Laundry Co.*, 117 Neb. 701, 222 N.W. 630 (1929); *Rookstool v. Cudahy Packing Co.*, 100 Neb. 851, 161 N.W. 583 (1917).

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This section has no application where pleadings and trial of case were on theory of common-law liability of employer. *Rookstool v. Cudahy Packing Co.*, 100 Neb. 851, 161 N.W. 583 (1917).

If unlawful employment is cause of injury, master is liable. *Hankins v. Reimers*, 86 Neb. 307, 125 N.W. 516 (1910).

48-302.01. Children; golf caddy; exempt from provisions of section. Section 48-302 shall not be construed to apply to the employment of any child solely as a caddy on any golf course or place where golf is played.

Source: Laws 1961, c. 237, § 1, p. 700; Laws 1987, LB 35, § 1.

48-302.02. Parent or person standing in loco parentis; exemption. Section 48-302 shall not apply to a parent or a person standing in loco parentis who employs and directly supervises his or her own child or a child in his or her custody in a business owned and operated by such parent or person standing in loco parentis. This section shall not exempt such an employer from the restrictions on hours of work, work, or place of performance described in sections 48-310 and 48-313.

Source: Laws 1993, LB 162, § 1.

48-302.03. Detasseling; employment; conditions; exemption. (1) A child under the age of twelve shall not be employed in detasseling.

(2) A child who is at least twelve years but less than sixteen years of age may be employed in detasseling if:

- (a) The employment is outside of school hours during the month of June, July, or August;
- (b) The employer of such child obtains the written consent of a parent of the child or a person standing in loco parentis to the child for the child to be so employed;
- (c) The child is domiciled within seventy-five miles of the location where the labor is to be performed; and
- (d) The child does not work more than forty-eight hours in any one week, nor more than nine hours in any one day, nor before the hour of 6 in the morning, nor after the hour of 8 in the evening if the child is under the age of fourteen, nor after the hour of 10 in the evening if the child is between the ages of fourteen and sixteen.

Transportation time shall not be counted under this subdivision nor shall time spent during work breaks or waiting time spent during storm events if no work is required during those periods.

(3) Sections 48-302 and 48-310 do not apply to employment of a child in detasseling if the requirements of subsection (2) of this section are met.

(4) This section does not apply to a parent or a person standing in loco parentis who employs and directly supervises his or her own child or a child in his or her custody in a business owned and operated by such parent or person standing in loco parentis.

Source: Laws 2001, LB 180, § 1.

48-302.04. Detasseling; employer; requirements. (1) An employer who employs a child under sixteen years of age in detasseling shall provide at least two supervisors who are eighteen years of age or older at each location where detasseling is being performed by a child under sixteen years of age. The supervisors shall be capable of assisting with issues of health, safety, and wages, including bonuses and incentive payments.

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(2) An employer who employs a child under sixteen years of age in detasseling shall provide the parents of such child with an information sheet defining the terms of employment, including, but not limited to, the availability of water and sanitary facilities on the job and wage, bonus, and incentive payment information. The information sheet shall set forth the name, address, and telephone number of the Division of Safety and Labor Standards of the Department of Labor for purposes of filing complaints concerning nonpayment of wages.

Source: Laws 2001, LB 180, § 2.

48-303. Employment certificate; approval by school officer; report; investigation. Except as otherwise provided in this section, an employment certificate shall be approved only by the superintendent of the primary high school district in which the child resides or by a person authorized by him or her in writing or, when there is no superintendent, by a person authorized by the school district officers, except that no school district officer or other person authorized by this section may approve such certificate for any child then in or about to enter his or her own employment or the employment of a firm or corporation of which he or she is a member, officer, or employee or in whose business he or she is interested. If a child who resides in an adjoining state seeks to work in Nebraska, the Department of Labor may approve the employment certificate. The officer or person approving such certificate may administer the oath provided for therein or in any investigation or examination necessary for the approval thereof. No fee shall be charged for approving any such certificate or for administering any oath or rendering any services related thereto. The school board or board of education of each school district approving the employment certificate, or the department if the department has approved the employment certificate, shall establish and maintain proper records where copies of all such certificates and all documents connected therewith shall be filed and preserved and shall provide the necessary clerical services for carrying out sections 48-302 to 48-313. The person who issued the employment certificate shall report to the department any complaint concerning the conditions of employment of a child for whom a certificate is in force. Upon receipt of the report, the department shall make such investigation as it deems advisable to protect an individual child or to promote the youth-work program.

Source: Laws 1907, c. 66, § 3, p. 260; R.S.1913, § 3577; Laws 1919, c. 190, tit. IV, art. III, § 3, p. 551; C.S.1922, § 7671; C.S.1929, § 48-303; R.S.1943, § 48-303; Laws 1967, c. 296, § 2, p. 805; Laws 1987, LB 35, § 2; Laws 1999, LB 272, § 19; Laws 2001, LB 180, § 4.

48-304. Employment certificate; issuance; conditions. The person authorized to issue an employment certificate under section 48-303 shall not issue such certificate until he or she has received, examined, approved, and filed the following papers duly executed:

(1) The school record of the child, properly filled out and signed as provided in section 48-306, showing the child has completed the work of the sixth grade of the public schools, or its equivalent, or is regularly attending night school in compliance with section 48-308; and

(2) a passport or duly attested transcript of the certificate of birth or baptism or other religious or official record showing the date and place of birth of such child. A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics, or other officer charged with the duty of recording births, shall be conclusive evidence of the age of such child. The affidavit of the parent, guardian, or custodian of a child shall be required only in case none of such documents can be produced and filed, showing the place and date of birth of such child, which affidavit must be taken before the officer issuing the employment certificate. Such employment certificate shall not be issued until such child has personally appeared before and been examined by the officer issuing the certificate and until such officer, after making such examination, signs and files in his or her office a statement that the child can read and legibly write simple sentences in the English language and that, in his or her opinion, the child has reached the normal development of a child of such child's age, and the child is in sound health and is physically able to perform the work which such child intends to do. In doubtful cases such physical fitness shall be determined by a physician provided by the Department of Labor. In addition to the requirements of this section, if the child is under fourteen years of age, the employment certificate shall be issued only for employment in connection with an employment program supervised and sponsored by the school or school district such child attends. Whenever the person authorized to issue the

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employment certificate is in doubt about the age of a child, he or she may require the party or parties making application for the certificate to appear before the judge of the juvenile court or the county judge where the question of the age of the child shall be determined and the judgment of the court shall be final and binding upon the person issuing the certificate. Notice of the hearing before the court shall be given to some one of the persons authorized to demand inspection of employment certificates. Every employment certificate shall be signed in the presence of the officer issuing the certificate by the child in whose name it is issued.

Source: Laws 1907, c. 66, § 4, p. 260; R.S.1913, § 3578; Laws 1919, c. 190, tit. IV, art. III, § 4, p. 551; C.S.1922, § 7672; C.S.1929, § 48-304; R.S.1943, § 48-304; Laws 1967, c. 296, § 3, p. 806; Laws 1999, LB 813, § 3.

48-305. Employment certificate; contents. Such certificate shall state the date and place of birth of such child and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by section 48-304 have been duly examined, approved and filed, and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Source: Laws 1907, c. 66, § 5, p. 262; R.S.1913, § 3579; Laws 1919, c. 190, tit. IV, art. III, § 5, p. 552; C.S.1922, § 7673; C.S.1929, § 48-305.

48-306. School record; contents. The school record shall be signed by the teacher and principal of the school which such child has attended and shall be furnished on demand to a child entitled thereto. It shall contain a statement certifying that the child has regularly attended the public schools, or schools equivalent thereto or parochial schools for not less than three-fourths of the school year prior to applying for such school record, and is able to read and write simple sentences in the English language. It shall also state the amount of work completed by such child, measured by the grade of the public day schools in the city or county. Such school record shall also give the age and residence of the child as shown on the records of the school, and the name of its parent, guardian or custodian.

Source: Laws 1907, c. 66, § 6, p. 262; R.S.1913, § 3580; Laws 1919, c. 190, tit. IV, art. III, § 6, p. 553; C.S.1922, § 7674; C.S.1929, § 48-306; R.S.1943, § 48-306; Laws 1967, c. 296, § 4, p. 807.

48-307. Employment certificate; filing with Department of Labor. The superintendent of public schools in all cities and towns having a population of more than one thousand according to the last official census and the presiding officer of all other school boards shall furnish a duplicate copy of all certificates issued under sections 48-302 to 48-313 to the Department of Labor. The duplicate certificates in the form set forth in section 48-309 shall be filed with the Department of Labor at the time of the issuance of the original certificate.

Source: Laws 1907, c. 66, § 7, p. 262; R.S.1913, § 3581; Laws 1919, c. 190, tit. IV, art. III, § 7, p. 553; C.S.1922, § 7675; C.S.1929, § 48-307; R.S.1943, § 48-307; Laws 1987, LB 35, § 3.

48-308. Employment certificate; evening school; attendance record. Regular attendance of a child at any public evening school, maintained in any city or village when instruction is given not less than twenty weeks each year, three evenings each week, and two hours each evening, shall authorize the issuance of a certificate of employment when the schooling certificate fails to show that the child has completed the work of the sixth grade if the schooling certificate and all other certificates are otherwise in due form and the applicant further produces a certificate from the superintendent or principal of such public evening school showing the regular attendance of such child at such evening school and if the child employed under such certificate furnishes to his or her employer a weekly certificate showing regular attendance each week while the evening school is in session.

Source: Laws 1907, c. 66, § 8, p. 262; R.S.1913, § 3582; Laws 1919, c. 190, tit. IV, art. III, § 8, p. 553; C.S.1922, § 7676; C.S.1929, § 48-308; R.S.1943, § 48-308; Laws 1967, c. 296, § 5, p. 807; Laws 1987, LB 35, § 4.

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48-309. Age and schooling certificate; Department of Labor to prescribe form. The age and schooling certificate provided for herein shall be made out upon blank forms prescribed and furnished in triplicate by the Department of Labor.

Source: Laws 1907, c. 66, § 9, p. 263; R.S.1913, § 3583; Laws 1919, c. 190, tit. IV, art. III, § 9, p. 554; C.S.1922, § 7677; C.S.1929, § 48-309; R.S.1943, § 48-309; Laws 1945, c. 116, § 1, p. 389.

48-310. Children under sixteen; working hours; limit; posting of notice; fee; special permit; exceptions.

(1) No person under sixteen years of age shall be employed or permitted to work in any employment as defined in section 48-301 more than forty-eight hours in any one week, nor more than eight hours in any one day, nor before the hour of 6 in the morning, nor after the hour of 8 in the evening if the child is under the age of fourteen, nor after the hour of 10 in the evening if such child is between the ages of fourteen and sixteen. The person issuing the work certificate may limit or extend the stated hour in individual cases by endorsement on the certificate, except a child shall only be permitted to work after the hour of 10 p.m. if there is no school scheduled for the following day and, if he or she is between fourteen and sixteen years of age, he or she has consented to such extension by signing his or her name on the endorsement extension, and his or her employer has obtained a special permit from the Department of Labor. The Department of Labor may issue a special permit to allow employment of such child beyond 10 p.m. upon being satisfied, after inspection of the working conditions, of the safety, healthfulness, and general welfare to the child of the business premises. The special permit may be issued for periods not to exceed ninety days and may be renewed only after reinspection. The fee for each permit or renewal shall be established by rule and regulation of the Commissioner of Labor, and all money so collected by the commissioner shall be remitted to the State Treasurer who shall credit the funds to the General Fund. Every employer shall post in a conspicuous place in every room where such children are employed a printed notice stating the hours required of them each day, the hours of commencing and stopping work, and the time allowed for meals. The printed form of such notice shall be furnished by the Department of Labor.

(2) Except as provided in subsections (3) and (4) of this section, no person under sixteen years of age shall be employed or permitted to work as a door-to-door solicitor.

(3) A person under sixteen years of age engaged in the delivery or distribution of newspapers or shopping news may be employed or permitted to work as a door-to-door solicitor of existing customers of such newspapers or shopping news.

(4) A person under sixteen years of age is permitted to work as a door-to-door solicitor if he or she is working on behalf of his or her own individual entrepreneurial endeavor.

Source: Laws 1907, c. 66, §10, p. 266; R.S.1913, §3584; Laws 1919, c. 190, tit. IV, art. III, §10, p. 556; C.S.1922, §7678; C.S.1929, §48-310; R.S.1943, §48-310; Laws 1963, c. 290, §3, p. 869; Laws 1967, c. 296, §6, p. 808; Laws 1969, c. 399, §1, p. 1389; Laws 1995, LB 330, §3; Laws 2005, LB 484, §1.

48-310.01. Performing arts; special permit; fee. When the Department of Labor finds it to be in the best interests of the child, the Department of Labor may issue a special permit waiving any requirement or restriction imposed on employment of a child pursuant to sections 48-302 to 48-313 for any child employed as a performer in the performing arts subject to such conditions as the Department of Labor deems necessary. For purposes of this section, performing arts means musical and theatrical presentations and productions, including motion picture, theatre, radio, and television productions. Before any such waiver is issued, the written consent of a parent or a person standing in loco parentis to the child is required. The Department of Labor may charge a fee established by rule and regulation of the Commissioner of Labor for each special permit issued pursuant to this section.

Source: Laws 1995, LB 330, § 4.

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48-310.02. Special permits; fees; limitation. The fees established by the Commissioner of Labor pursuant to sections 48-310 and 48-310.01 shall be established with due regard for the costs of administering sections 48-310 and 48-310.01. The fees shall not exceed the amount necessary to meet the costs of administering sections 48-310 and 48-310.01.

Source: Laws 1996, LB 1047, § 1.

48-311. Violations; penalties. Whoever employs a child under sixteen years of age and whoever, having under his or her control a child under such age, causes or permits such child to be employed in violation of sections 48-302 to 48-313 is guilty of a Class II misdemeanor. Whoever continues to employ any child in violation of any of such sections, after being notified by an attendance officer or by the Department of Labor or by its assistants or employees, is, for every day thereafter that such employment continues, guilty of a Class II misdemeanor.

The failure of an employer of child labor to produce, upon request of a person authorized to demand the same, any employment certificate or list required by such sections shall be prima facie evidence of the illegal employment of any child whose employment certificate is not produced or whose name is not listed. Any corporation or employer retaining employment certificates in violation of such sections is guilty of a Class II misdemeanor.

Every person authorized or required to sign any certificate or statement prescribed by such sections who knowingly certifies or makes oath to any material false statement therein or who violates any of the provisions of such sections is guilty of a Class II misdemeanor.

Every person who refuses admittance to any person authorized to visit or inspect any premises or place of business under the provisions of such sections and to produce all certificates and lists he or she may have when demanded, after such person shall have announced his or her name and the office he or she holds and the purpose of his or her visit, or otherwise obstructs such persons in the performance of their duties prescribed by such sections is guilty of a Class II misdemeanor.

Source: Laws 1907, c. 66, § 11, p. 266; R.S.1913, § 3585; Laws 1919, c. 190, tit. IV, art. III, § 11, p. 556; C.S.1922, § 7679; C.S.1929, § 48-311; R.S.1943, § 48-311; Laws 1967, c. 296, § 7, p. 808; Laws 1977, LB 40, § 280; Laws 1987, LB 35, § 5; Laws 1995, LB 330, § 5; Laws 2001, LB 180, § 5.

48-312. Unlawful employment; evidence; visitation; reports. The presence of a child under sixteen years of age, apparently at work, in a place of employment as defined in section 48-301 is prima facie evidence of his or her employment there. Attendance officers shall visit the places of employment to ascertain whether any children are employed contrary to the provisions of sections 48-302 to 48-313, and the attendance officers shall report any cases of illegal employment to the Department of Labor and to the county attorney.

Source: Laws 1919, c. 190, tit. IV, art. III, § 12, p. 557; C.S.1922, § 7680; C.S.1929, § 48-312; R.S.1943, § 48-312; Laws 1967, c. 296, § 8, p. 809; Laws 1995, LB 330, § 6.

48-313. Children under sixteen; dangerous, unhealthy, or immoral employment. No child under the age of sixteen years shall be employed in any work which by reason of the nature of the work or place of performance is dangerous to life or limb or in which his or her health may be injured or his or her morals may be depraved. No parent, guardian, or other person, who has under his or her control any child, shall cause or permit such child to work or be employed in violation of this section.

Source: Laws 1907, c. 66, § 13, p. 268; R.S.1913, § 3587; Laws 1919, c. 190, tit. IV, art. III, § 13, p. 558; C.S.1922, § 7681; C.S.1929, § 48-313; R.S.1943, § 48-313; Laws 1977, LB 40, § 281; Laws 1987, LB 35, § 6.